E-FILED 11/20/2008 1 STEPHANIE L. QUINN, ESQ. - SBN 216655 THOMAS A. CREGGER, ESQ. - SBN 124402 2 RANDOLPH CREGGER & CHALFANT LLP 1030 G Street 3 Sacramento, CA 95814 Telephone: (916) 443-4443 Facsimile: (916) 443-2124 4 5 Attorneys for Defendant UNION PACIFIC RAILROAD COMPANY (sued herein as UNION PACIFIC CORPORATION) 6 7 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF CALIFORNIA 10 SAN JOSE DIVISION 11 12 FREDERICK N. BURGENER No. C 07 05160 JF HRL 13 Plaintiff, STIPULATION RE14 PROTECTIVE ORDER ONCERNIN VS. CONFIDENTIAL DOCUMENTS 15 UNION PACIFIC CORPORATION, PRODUCED IN DISCOVERY 16 (MODIFIED BY THE COURT) Defendants. 17 18 19 This agreement is entered into by and between the undersigned attorneys on behalf of their 20 respective clients, FREDERICK N. BURGENER ("Plaintiff") and UNION PACIFIC RAILROAD 21 COMPANY, a corporation ("Defendant"). 22 1. Plaintiff and Defendant (hereinafter "Parties") have requested the production of 23 military records for inspection and copying in conjunction with discovery in this litigation, and, 24 2. These military records include sensitive information including employee personnel 25 records, employee earnings records, medical records, and financial records (hereinafter 26 "Confidential Material").

6

7

8 9

10 11

12

13

14 15

16

17 18

19

20 21

22

23 24

25 26 3. Copies of Confidential Material will be designated "Confidential."

4. Confidential documents, all copies thereof, and any summaries, charts or notes made therefrom, and any facts or information contained therein or derived therefrom, shall be disclosed only to the Court and/or to: (a) the parties; (b) counsel for the parties hereto and their agents, employees, paralegals, or other secretarial and clerical employees or agents; (c) experts or consultants retained by one or more of the parties to this action or their counsel, to assist in preparation of this action for trial; (d) deponents and their counsel; (e) stenographic reporters and videographers who are involved in depositions, the trial or any hearings or proceedings before the Court in this action; and (f) witnesses at the trial of this action.

Unless otherwise ordered by the court,No person authorized hereunder to view copies of Confidential Material, or to make 5. notes therefrom, may disclose any portion of the subject matter or contents of either to any person not authorized hereunder.

- 6. The Confidential Material, copies of any portion of the Confidential Material itself, and all notes arising from examination of said Confidential Material, as well as discussions of the contents thereof, shall be used only in connection with the instant case, and shall not be used in connection with any other lawsuit or for any other purpose whatsoever, unless such Confidential Material is independently discovered in another proceeding. Within 180 days following the conclusion of this action, including appeals, if any, the parties and their counsel, shall destroy all Confidential Materials and provide notice to the other parties' attorneys of record.
- 7. This Protective Order is without prejudice to reconsideration by the Court as discovery continues.
- 8. The Parties may request that Confidential Material be filed under seal. However made in compliance with Civil Local Rule 79-5.
 any such request shall be subject to approval by the court, for good cause, upon noticed motion.
- 9. Any Party may move the Court for relief from, or modification of, this order at any time, and each Party hereto reserves the right to contend in any such motion that documents produced by another Party and information contained therein are not confidential. The stipulation In any challenge to confidentiality, the burden of persuasion shall be on the party claiming confidentiality. - 2-

1	does not constitute an admission as to	the admissibility of any Confidential Material at trial.
2	10. The Parties agree to act in good faith in designating Confidential Material and agree	
3	not to use this Stipulation for any purpose other than as stated herein.	
4	IT IS SO STIPULATED.	
5	DATED: November 18, 2008	TULLY RINCKEY P.L.L.C.
6		
7		By /s/ STEVEN L. HERRICK STEVEN L. HERRICK
8		Attorneys for Plaintiff FREDERICK N. BURGENER
9	D. (TED. 1) 10 2000	
10	DATED: November 18, 2008	RANDOLPH CREGGER & CHALFANT LLP
11		D., /a/CTEDIJANJE I OLJANA
12 13		By <u>/s/ STEPHANIE L. QUINN</u> STEPHANIE L. QUINN Attorneys for Defendant UNION PACIFIC
14		RAILROAD COMPANY
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
		- 3-

1	PROOF OF SERVICE	
2	CASE: Burgener v. Union Pacific Railroad Company, Case No. 5:07-cv-05160-JF HRL COURT: USDC, Northern District of California, San Jose Division	
3	The undersigned declares:	
4	I am a citizen of the United States and a resident of the County of Sacramento. I am	
5	over the age of 18 years and not a party to the within above-entitled action; my business address is 1030 G Street, Sacramento, CA 95814.	
6	I am readily familiar with this law firm's practice for collection and processing of	
7	deposited with the United States Postal Service the same day in the ordinary course of busin	
	On the date indicated below I served the within STIPULATION RE PROTECTIVE	
9	on all parties in said action as addressed below by causing a true copy thereof to be:	
10 11	<u>X</u> placed in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing mail:	
12	delivered by hand:	
13	telecopied by facsimile:	
14	express mailed:	
15		
16	Daniel M. Mayfield, Esq. Carpenter & Mayfield	
17	730 N 1st Street San Jose, CA 95112	
18	Phone: (408) 287-1916 Fax: (408) 287-9857	
19	Tux. (100) 201 7031	
20	I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.	
21	Executed this November 19, 2008 at Sacramento, California.	
22	/s/ SUSAN R. DARMS	
23	SUSAN R. DARMS	
24		
25		
26		
	A	

1	STEPHANIE L. QUINN, ESQ SBN 216655		
2	THOMAS A. CRÉGGER, ESQ SBN 124402 RANDOLPH CREGGER & CHALFANT LLP 1030 G Street		
3	Sacramento, CA 95814 Telephone: (916) 443-4443		
4	Facsimile: (916) 443-2124		
5 6	Attorneys for Defendant UNION PACIFIC RAILROAD COMPANY (sued herein as UNION PACIFIC CORPORATION)		
7			
8	INITED STATES DISTRICT COLUMN		
9	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA		
10	SAN JOSE DIVISION		
11	SAN JOSE DIVISION		
12	FREDERICK N. BURGENER	No. C 07 05160 JF HRL	
13			
	Plaintiff.	EPROPOSEDI ORDER ON	
14	Plaintiff, vs.	PROPOSED ORDER ON STIPULATION RE PROTECTIVE ORDER	
14 15	·	PROPOSED ORDER ON STIPULATION RE PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS	
15 16	vs.	PROTECTIVE ORDER CONCERNING	
15 16 17	vs. UNION PACIFIC CORPORATION,	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS	
15 16	vs. UNION PACIFIC CORPORATION,	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS	
15 16 17	vs. UNION PACIFIC CORPORATION, Defendants.	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS	
15 16 17 18	Vs. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the Concerning Confidential military records Production	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a	
15 16 17 18 19	VS. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the C Concerning Confidential military records Product period of six months after the final termination	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a	
15 16 17 18 19 20	VS. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the C Concerning Confidential military records Product period of six months after the final termination	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a n of this action, this court shall retain	
15 16 17 18 19 20 21	Vs. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the Concerning Confidential military records Product period of six months after the final termination DATED: jurisdiction to enfo	PROTECTIVE ORDER C O N C E R N I N G CONFIDENTIAL DOCUMENTS PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a n of this action, this court shall retain ree the protective order. /s/ Howard R. Lloyd	
15 16 17 18 19 20 21 22	Vs. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the Concerning Confidential military records Product period of six months after the final termination DATED: jurisdiction to enfo	Confidential Documents PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a confident of this action, this court shall retain rece the protective order. /s/ Howard R. Lloyd UNITED STATES DISTRICT	
15 16 17 18 19 20 21 22 23	Vs. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the Concerning Confidential military records Product period of six months after the final termination DATED: jurisdiction to enfo	Confidential Documents PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a confident of this action, this court shall retain rece the protective order. /s/ Howard R. Lloyd UNITED STATES DISTRICT	
15 16 17 18 19 20 21 22 23 24	Vs. UNION PACIFIC CORPORATION, Defendants. FOR GOOD CAUSE APPEARING, the Concerning Confidential military records Product period of six months after the final termination DATED: jurisdiction to enfo	Confidential Documents PRODUCED IN DISCOVERY Court enters the Stipulation Re Protective Order (as modified by the court) ed in Discovery as an order of the Court. For a confident of this action, this court shall retain rece the protective order. /s/ Howard R. Lloyd UNITED STATES DISTRICT	

1	PROOF OF SERVICE		
2	CASE: Burgener v. Union Pacific Railroad Company, Case No. 5:07-cv-05160-JF HRL COURT: USDC, Northern District of California, San Jose Division		
3	The undersigned declares:		
4			
5	I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of 18 years and not a party to the within above-entitled action; my business address is 1030 G Street, Sacramento, CA 95814.		
6	I am readily familiar with this law firm's practice for collection and processing of		
7	correspondence for mailing with the United States Postal Service; said correspondence will be deposited with the United States Postal Service the same day in the ordinary course of business.		
8	On the date indicated below I served the within [PROPOSED] ORDER ON		
9	STIPULATION RE PROTECTIVE ORDER CONCERNING CONFIDENTIAL DOCUMENTS PRODUCED IN DISCOVERY on all parties in said action as addressed below		
	by causing a true copy thereof to be:		
11 12	X placed in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing mail:		
	delivered by hand:		
13	telecopied by facsimile:		
14	express mailed:		
15			
16	Co-Attorneys for Plaintiff Daniel M. Mayfield, Esq.		
17	Carpenter & Mayfield 730 N 1st Street		
18	San Jose, CA 95112		
	Phone: (408) 287-1916 Fax: (408) 287-9857		
19			
20	I declare under penalty of perjury under the laws of the State of California that the		
21	foregoing is true and correct.		
22	Executed this November 19, 2008 at Sacramento, California.		
23	/s/_ SUSAN_R DARMS SUSAN R. DARMS		
	SUSAN R. DARING		
24			
25			
26			